

**Pennsylvania Gas & Water Co. and Local Union
2244, of the International Brotherhood of Elec-
trical Workers, AFL-CIO. Case 4-RC-15473**

26 April 1984

DECISION AND ORDER

**BY CHAIRMAN DOTSON AND MEMBERS
HUNTER AND DENNIS**

The National Labor Relations Board, by a three-member panel, has considered determinative challenges in, and objections to, an election held 9 December 1983 and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 12 for and 9 against the Petitioner, with 3 challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, and has adopted the Regional Director's findings and recommendations, as modified herein.¹ Contrary to the Regional Director, we conclude that the Petitioner's challenge to the ballot of Suzanne Swartz raises substantial issues of fact which can best be resolved by hearing.² In such circumstances, we shall also include in the hearing the status of Marguerite Benson, and Petitioner's Objections 1, 3, and 5 as designated by the Regional Director. These proceedings will be consolidated with Case 4-CA-14136 for hearing.

¹ In the absence of the exceptions thereto, we adopt, pro forma, the Regional Director's recommendations to overrule the Petitioner's challenge to the ballot of Ruth Bell, and to dismiss Objections 2, 4, 6, and 7, and the last sentence of Objection 3.

² Because this is a stipulated unit case, the hearing regarding Swartz' ballot should address, inter alia, "the parties' intent with regard to the disputed employee." *Tribune Co.*, 190 NLRB 398 (1971). If that intent is "unclear or the stipulation ambiguous," then community-of-interest principles will come into play. *NLRB v. Boston Beef Co.*, 652 F.2d 223 (1st Cir. 1981). All issues regarding Swartz' ballot should be fully explored, however, at the hearing.

ORDER

It is hereby ordered that a hearing be held for the purpose of receiving evidence to resolve issues raised by the Petitioner's challenges to the ballots of Suzanne Swartz and Marguerite Benson and by Petitioner's Objections 1 and 5 and the first two sentences of Petitioner's Objection 3, and that the hearing be consolidated with the hearing to be held in Case 4-CA-14136 before an administrative law judge to be designated by the chief administrative law judge. If the unfair labor practice case is disposed of before the hearing, a hearing officer will be duly designated to hear the representation case.

IT IS FURTHER ORDERED that the administrative law judge, or hearing officer, designated for the purpose of conducting the hearing shall prepare and cause to be served on the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues. Within 10 days from the date of issuance of the report, any party may file with the Board in Washington, D.C., 8 copies of exceptions. Immediately upon the filing of the exceptions, the party filing shall serve a copy on the other party, and shall file a copy with the Regional Director. If no exceptions are filed, the Board will adopt the recommendations of the administrative law judge or hearing officer.

IT IS FURTHER ORDERED that the above-entitled matter be remanded to the Regional Director for Region 4 for the purpose of arranging such hearing and that the Regional Director be authorized to issue notice thereof.

IT IS FURTHER ORDERED that the Regional Director shall hold the disposition of all the challenged ballots in abeyance pending the outcome of the unfair labor practice proceeding involving the voters' eligibility status, whereupon he may take such action as he deems appropriate.